

REMARKS

The Office rejects the claims as obvious over Maxwell et al. in view of Cook et al. and further in view of Heidlas et al.

New claim 18 is presented, which combines the subject matter of claims 1, 6 and 3.

The Office appears to acknowledge that Maxwell et al. does not describe a bar having a water activity A_w of 0.45 or less, containing about 2% wt. or more of a diol or triol polyol and containing soy protein in the form of nuggets.

The specification discloses that the nutritional bar of the present invention has the advantage that it contains soy protein nuggets as well as transition metals, without concomitant off-flavor development and discoloration, as can be derived from page 5, lines 7-10, of the application as originally filed. This type of spoilage was found to result from reactions between proteins and reducing sugars, especially in the nuggets (cf. claim 6), which were found to be catalyzed by the transition metals. It was found that this problem could be solved by e.g., incorporating a humectant and establishing a specific A_w of less than 0.4.

The Office has asserted that "one of ordinary skill in the art would have been motivated to combine soy protein, glycerol and transition metals into a nutrition bar because the combination of these ingredients into a nutrition bar would have assured a suitable "packaging" or the delivery of the product." The argumentation presented by the Office can be summarized as follow. Maxwell teaches a health bar comprising soy protein solids, a reducing sugar (mannitol) and minerals. It would have been obvious to a

skilled person to incorporate glycerol in the health bar according to Maxwell as it was clear from the Cook reference that glycerol can be used in a food bar and the A_w being between 0.2 to about 0.55. In addition, it would have been obvious to use protein nuggets as Maxwell discloses the use of solid protein.

Applicants submit that there was no apparent incentive for a skilled person to combine the teachings of Maxwell and Cook. The mere fact that Cook teaches food bars containing glycerol and having a water activity of 0.2-0.55 in itself does not provide an incentive to modify the health bars according to Maxwell by reducing the water activity and including glycerol. This is particularly true since the bars described in these two references are quite different (see examples). Furthermore, since none of the cited references makes any reference to protein nuggets, it cannot have been obvious to incorporate such protein nuggets. Even less can the prior art be considered to suggest the subject matter of new claim 18.

In view of the foregoing, it is respectfully requested that the application, as amended, be allowed.

Respectfully submitted,



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